

have no control. On the day of receipt, BXA will evaluate your license application and decide whether emergency handling is warranted. Frequent emergency request will be given particularly close scrutiny. This procedure is not designed to become a substitute for timely filing of license applications.

(4) *Action on license applications processed under emergency procedures.* If you have submitted an emergency request, you will be contacted by the Exporter Counseling Division informing you of whether or not your request for emergency processing has been granted. If your license is approved under emergency handling procedures, you will be notified by BXA of the approval by telephone or in person. You will be given the license number and verbal authorization to effect shipment immediately, without waiting for the actual license. Any license approved under these emergency handling procedures will have a limited validity period as described in § 750.7(g) of the EAR.

§ 748.5 Parties to the transaction on a license application.

(a) *Applicant.* (1) The “applicant” is defined as the person who, as the principal party in interest in the transaction, has the power and responsibility for determining and controlling the exporting or reexporting of the items. BXA is primarily concerned with the identity of the applicant and the applicant’s role in the transaction, and not the terms of sale.

(2) Ordinarily, a seller who delivers items in the United States to a foreign buyer, or to the latter’s forwarder or other agent, would not be in a position to assume responsibility for the export and would not be a proper applicant. This would normally be the situation where sale is made f.o.b. factory, although such terms of sale may relate only to price and are not necessarily inconsistent with the assumption by the seller of full responsibility for effecting the export or reexport. The seller can still be liable if the seller knows that the importer or its agent will not obtain the required license.

(3) If the seller intends to leave the responsibility for effecting an export or reexport in the hands of the foreign importer or the latter’s forwarding or

purchasing agent in the United States, the foreign importer should apply for the license in the foreign importer’s own name if the foreign importer is subject to the jurisdiction of the United States at the time of export. Otherwise, the importer’s forwarding or purchasing agent or other person subject to the jurisdiction of the U.S. must appear as applicant and exporter. In this situation you, as the applicant, must disclose your role as agent and the name of your principal.

(b) *order party.* The order party is that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, received the order from the foreign purchaser or ultimate consignee.

(c) *Purchaser.* The purchaser is that person abroad who has entered into the transaction with the applicant to purchase an item for delivery to the ultimate consignee. A bank, freight forwarder, forwarding agent, or other intermediary is not the purchaser. The purchaser and ultimate consignee may be the same entity.

(d) *Intermediate consignee.* The intermediate consignee is the bank, forwarding agent, or other intermediary (if any) who acts in a foreign country as an agent for the exporter or re-exporter, the purchaser, or the ultimate consignee, for the purpose of effecting delivery of the export or reexport to the ultimate consignee.

(e) *Ultimate consignee.* The ultimate consignee is the person located abroad who is the true party in interest in actually receiving the export for the designated end-use. A bank, freight forwarder, forwarding agent, or other party, when acting as an intermediary, is not acceptable as the ultimate consignee.

§ 748.6 General instructions for license applications.

(a) *Form and instructions.* An application for license, whether to export or reexport, must be submitted on Form BXA-748P, Multipurpose Application (revised June 15, 1996 or later), and Form BXA-748P-A, Item Appendix, and Form BXA-748P-B, End-User Appendix. Facsimiles or copies of these forms are

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not acceptable. Instructions for preparing Form BXA-748P are contained in Supplement No. 1 to this part 748. See § 748.7(a) of this part for instructions on submitting license applications electronically.

(b) *Application Control Number.* Each application form includes a preprinted Application Control Number. The Application Control Number, consisting of a letter followed by six digits, is for use by BXA when processing applications, and by applicants when communicating with BXA concerning pending applications. This number is used for tracking purposes within the U.S. Government. The Application Control Number is not a license number.

(c) *Approval or denial in entirety.* License applications may be approved in whole or in part, denied in whole or in part, or returned without action. However, you may specifically request that your license application be considered as a whole and either approved or denied in its entirety.

(d) *Combining items on license applications.* Any items may be combined on a single application, however, if the items differ dramatically (e.g., computers and shotguns) the number of BXA offices to which a license application may be referred for review may increase significantly. Accordingly, it is recommended that you limit items on each license application to those that are similar and/or related.

(e) *Assembly and additional information.* All documents or correspondence accompanying your license application should bear the Application Control Number, and be stapled together. Where necessary, BXA may require you to submit additional information beyond that stated in the EAR confirming or amplifying information contained in your license application.

(f) *Changes in facts.* Answers to all items on the license application will be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the transaction, must be promptly reported to BXA, whether a license has been granted or the license application is still under consideration. If a license has been granted and such changes are

not excepted in § 750.7(c) of the EAR, they must be reported immediately to BXA, even though shipments against the license may be partially or wholly completed, during the validity period of the license.

(g) *Request for extended license validity period.* An extended validity period will generally be granted if your transaction is related to a multi-year project, when production lead time will not permit export or reexport during the normal validity period or for other similar circumstances. A continuing requirement to supply spare or replacement parts will not normally justify an extended validity period. To request an extended validity period, include justification for your request in Block 24 on the application.

§ 748.7 Applying electronically for a license or Classification request.

(a) *Authorization.* You may apply electronically once you have been authorized to do so by BXA. An authorization to submit applications electronically may be limited or withdrawn by BXA at any time. There are no prerequisites for obtaining permission to submit electronically or limitations in terms of country eligibility. However, BXA may direct for any reason that any electronic application be resubmitted in writing, in whole or in part.

(1) *Requesting approval to submit applications electronically.* To submit applications electronically, your company must submit a written request to BXA at one of the addresses identified in § 748.2(c) of this part. Both the envelope and letter must be marked "Attn: Electronic Submission Request". Your letter must contain your company's name, and the address, telephone number, and name of the principal contact person in your company. Before approving your request, BXA will provide you with language for a number of required certifications. Once you have completed the necessary certifications, you may be approved by BXA to submit applications electronically.

(2) *Assignment and use of company and personal identification numbers.* (i) Each company granted permission to submit